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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,207	02/27/2004	Edward E. Miller	03.09.17.1	9072
7590 Thomas R. Weaver Attorney-at-Law P.O. Box 1405 Duncan, OK 73534	01/26/2007		EXAMINER HARLAN, ROBERT D	ART UNIT 1713 PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS	MAIL DATE 01/26/2007		DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/789,207	MILLER, EDWARD E.	
	Examiner Robert D. Harlan	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 October 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) Claim(s) 14-16 is/are allowed.
- 6) Claim(s) 1,2,6,12 and 13 is/are rejected.
- 7) Claim(s) 3-5,7 and 8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. The Remark filed by Applicant on 10/30/2006 has been entered.

Response to Amendment/Arguments

2. Applicant's amendment and arguments filed on 10/30/2006 have been fully considered and they are found persuasive.
3. The rejection of claims 1-8 and 12-16 under 35 U.S.C. 103(a) as being unpatentable over Shioji et al., U.S. Patent No. 6,297,336 (hereinafter "Shioji") is withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-2, 6 and 12-13 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Shioji et al., U.S. Patent No. 6,297,336 (hereinafter "Shioji"). Patents are relevant for all they contain. Shioji teaches a monomer composition comprising acrylic acid, sodium acrylate and magnesium acrylate. See col. 3, line 23 through col. 4, line 4. The amount of monovalent salt of acrylic acid has no patentable weight because the range include "zero." Shioji further teaches the use of free radial initiators in polymerizing the acrylate mixtures. See Shioji col. 4, line 64 through col. 5, line 16. The basic requirements of *prima facie* case of obvious are: (1) there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

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teachings; (2) there must be a reasonable expectation of success; (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP 2143. "There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." See In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998).

7. Although Shioji does not disclose in the working examples composition containing are three monomers or acrylic acid/divalent acrylate mixture, based on the specification as a whole a polymer chemist of ordinary skill in the art would be motivated to modify Shioji by preparing water soluble polymers. In concurrence with Applicant, Shioji discloses polymers prepared from mixtures of acrylic acid, monovalent acrylate, and divalent acrylate are useful in the disclosed invention. Furthermore, Shioji provides motivation by making it clear that a 1:1 mixture and 0.5:1 mixture of salt acrylate/acrylic acid is obtained by introducing the necessary amount of base (NaOH is given as an example). Such modification would be obvious because one would have a reasonable expectation of success that neutralization of acrylic acid as taught by Shioji would be

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similarly useful and applicable for a wide array of hydroxide bases. Therefore, claims 1-2, 6 and 12-13 are deemed as being unpatentable over Shioji.

8. Claims 14-16 are allowed.

9. Claims 3-5, 7 and 8 are objected for depending on a rejected base claim.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

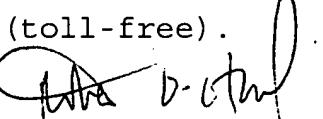
11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (571) 272-1102. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 273-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert D. Harlan
Primary Examiner
Art Unit 1713

rdh